

to pursue Claims 1-12 and canceled Claims 13-22 without prejudice or disclaimer. The Applicant also previously canceled Claims 3-5 and 9 without prejudice or disclaimer. The Applicant does not presently amend, cancel or add any claims. Accordingly, Claims 1-2, 6-8 and 10-12 are currently pending in the application.

I. Rejection of Claims 1-2, 6-8 and 10-12 under 35 U.S.C. §102

The Examiner has rejected Claims 1-2, 6-8 and 10-12 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,228,711 to Hsieh. Hsieh fails to teach or suggest forming at least two openings in a layer for a capacitor having a first electrode and a second electrode, with each electrode being defined by an opening that extends through the layer and a stop layer included in the layer, as recited in Claim 1 and analogously in Claim 10. More specifically, Hsieh fails to teach or suggest a second capacitor electrode defined by an opening that extends through a layer and its stop layer. In contrast, Hsieh discloses two identical capacitors each having a first electrode 348a defined by a dual damascene opening 346 in dielectric layers 320, 326 and 330 and a second electrode 358 substantially defined by an opening in a hemispherical-grained silicon layer 350a employed as the capacitor dielectric. (FIG. 3I and 3J; column 6, lines 18-60). Thus, Hsieh teaches a second electrode 358 defined by an opening in the capacitor dielectric 350a, rather than in the layers 320, 326 and/or 330, as required by the claims of the present application. Moreover, Hsieh provides no suggestion, motivation or mere mention of forming an opening that defines a second capacitor electrode because doing so would decrease capacitance values and increase capacitor spacing/size requirements, complexity and costs, in direct contrast to the objectives outlined in Hsieh. (Column 3, lines 15-33).

Thus, Hsieh does not disclose each and every element of the claimed invention and, as such, is not an anticipating reference for independent Claims 1 and 10.

The Examiner states that the specification does not set forth a first capacitor electrode being formed in one opening and a second electrode formed in a second opening in the same layer. Apparently, the rejection is based on the capacitor in Hsieh has having both electrodes contained within the same opening, even though they are both not defined by the opening and have intervening layers between the electrodes. Because it is sufficient disclosure if the invention is adequately described to one skilled in the art, the Applicant respectfully disagrees. *In re Alton*, 76 F.3d 1168, 1175, 37 USPQ2d 1578, 1583-84 (Fed. Cir. 1996).

The Applicant calls the Examiner's attention to page 4 of the Application, lines 26-29, where capacitor openings 127 are described as being formed. A person of ordinary skill in the art would, by reference to this passage and Figure 3, know that there are two openings for a capacitor. Then, on page 6, lines 9-12, the deposit of a conductive layer 145 is described, which conductive layer fills the capacitor openings 127. A person of ordinary skill in the art would know that a capacitor requires two electrodes and then, by referring to lines 18-19 on page 6, find that a "...capacitor 170 is formed..." A person of ordinary skill in the art would know from reading the forgoing passages and by referring to Figures 7 and 8, that one electrode of the capacitor is formed in one opening and the second electrode is formed in the second opening in the same layer. The Applicant submits that the specification is clear.

Hsieh does not anticipate Claim 1 nor Claim 10. Because Claims 2, 6-8 and 11-12 are each dependent upon either Claim 1 or Claim 10, Hsieh also cannot be an anticipating reference for

Claims 2, 6-8 and 11-12. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102(e) rejection of Claims 1-2, 6-8 and 10-12 with respect to Hsieh.

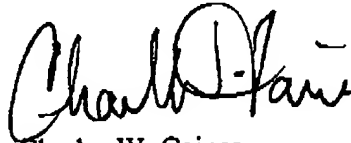
II. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-2, 6-8 and 10-12.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

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